

Stop abuse and harassment by bylaw enforcement & police officers **Stop the misuse of bylaws against holistic practitioners**

We are the individuals and organizations who are deeply concerned with abuse of power and misconduct committed by the Municipal Licensing and Standards division (MLS)¹ and its bylaw enforcement officers as well as police officers empowered to enforce these bylaws. Police and bylaw enforcement officers have used municipal bylaws to harass and target holistic health centers and their employees, with practices that infringe on their fundamental rights, endanger their safety and disrupt their livelihoods.

We urge the Mayor and City Councillors of Toronto to take immediate action to stop the misuse of bylaws to target and harass holistic health centres and practitioners and to end police and bylaw enforcement officers' misconduct.

We also urge City Councillors to direct the Licensing Standards Committee to remove the moratorium on the issuance of new licenses to holistic practitioner applicants associated with five restricted professional health associations, until a comprehensive review of the current holistic bylaw policy has been conducted in consultation with affected holistic centres and practitioners.

Stop abuses and misconduct by bylaw enforcement and police officers

The holistic practitioner community has raised their concern regarding human rights violations and abuse of power at the hands of police and bylaw enforcement officers; of which 33% of holistic practitioners say they have experienced. Specifically, holistic practitioners – the majority of whom people of colour - have been subjected to sexual misconduct, humiliating and dehumanizing treatment, arbitrary arrest and unwarranted searches of their personal items. This rampant misconduct has serious repercussions in the workplace, endangering the safety of workers by undermining community trust in law enforcement, and making practitioners hesitant or fearful of seeking help from law enforcement when they experience violence or other dangerous situations. When holistic practitioners do report misconduct and harassment perpetrated by officers, they have been barred from filing complaints and are made subject of reprisal. Moreover, officers have also harassed and intimidated customers of holistic practitioners and infringed on their privacy rights.

End discriminatory, excessive and targeted inspections of holistic centers and practitioners

Holistic practitioners have been targeted with excessive, unnecessary and discriminative inspections and prosecutions. From 2013 to 2016, the number of MLS visits to holistic centers has rapidly increased by 212% (1780 visits in 2016) and visits to holistic practitioners has increased by 323% (2585 visits in 2016). Holistic centers now comprise nearly a quarter of total MLS visits to businesses in 2016.

¹ The Municipal Licensing and Standards division (MLS) is responsible for supporting the City of Toronto as “a safe, vibrant, creative and clean community through bylaw administration and enforcement serving those who live, work and visit there”.

More than 2,200 practitioners, particularly those of Asian descent, have been disproportionately and unfairly targeted by excessive investigations, with individual bylaw visits conducted by as many as seven officers together, leading to neighbours and business disruption. While the City continues to underfund initiatives to address housing, safety and poverty issues, it will increase the MLS enforcement division budget by \$682,000 annually to cover the cost of hiring 5 new bylaw enforcement officers with a specific mandate of targetting 410 holistic centres and 25 body rub parlors.

Since the majority of the holistic practitioners are racialized, particularly from Chinese and other Asian backgrounds, the excessive practices of law enforcement officers towards holistic centres and practitioners amounts to racial profiling and discrimination.

Stop excessive prosecutions and misuse of bylaws which endanger the safety of holistic practitioners

MLS has issued 1,604 charges to holistic centers of being “non-compliant” with bylaws between 2014 and 2017, as a direct result of excessive inspections and the misuse of bylaws. The holistic practitioners state that ticketing and prosecution have become the primary purposes of visits and investigations over the last two years, and these “visits” sometimes last for more than one hour. However, only 900 (56%) of the charges have led to conviction and the vast majority of them are for minor and immaterial infringements², such as small stitch marks on massage beds or not having the license number on an individual’s name card. Some of the practitioners were charged with bylaw infractions when they carry out measures necessary to protect their own safety, such as: locking the door when they are alone, installing camera for safety and privacy reasons, and not disclosing the personal information of themselves and their clients.

Stop using misleading information to support harmful policies

The Licensing and Standards department has fully adopted the information contained in Auditor General’s staff report by implementing a moratorium on issuance of new licenses to holistic practitioner applicants from five specific professional health associations (PHAs) with no due process or public consultation with holistic practitioners, professional health associations or the public. The Auditor General’s and MLS staff reports are both based on biased and misleading information³, while creating the impression that the majority of the holistic practitioners associated with these professional associations are non-compliant in order to justify discriminatory and harmful policies towards these practitioners.

The five targetted PHAs are some of the few multilingual PHAs in existence; it is difficult to obtain membership from other PHAs due to the practitioners’ language barriers. As a result, this policy will lead disproportionately to a large number of Asian practitioners being blocked from obtaining licenses to legally work in their industry.

² From Jan -Oct 2017, there were 255 charges issued, 41 of them are “table mat not in a good repair” and 21 of them are charged of “no licensing number on advertisement” (the holistic centres were charged when they don't put the licensing number on the business card).

³ These allegations are not evidence based and largely based on misleading and biased information, for example, that holistic centres poses the risk of human trafficking, without any supporting evidence. The staff report has in March stated that that five targeted PHAs were linked to 98% of bylaw charges. However, the vast majority of holistic practitioners (86.28%) are members of these five targetted PHAs. Since almost 9 out of 10 holistic practitioners are associated with these PHAs and their members were being disproportionately targeted in last few years, it is not surprising that they also constitute most of the violations.

We oppose to any expansion of bylaw enforcement in this industry as the enforcement system is already highly problematic, rife with abuse, and discriminatory in effect. The consultation process to review the licensing of Body Rub Parlours and Holistic Centres should be based on a framework that protects and respects the rights, health and safety of practitioners; with accountability measures to monitor and prevent bylaw enforcement officers from engaging in abusive behaviour and rights violations during their visits and investigations.

Conclusion

The purpose of Municipal Licensing and Standards is to ensure “a safe, vibrant, creative and clean community through bylaw administration and enforcement serving those who live, work and visit there”. Bylaw enforcement officers should therefore be accountable to residents of Toronto, most importantly those whom their actions affect the most. In light of the above-noted reasons, we issue the following five demands:

- 1) The mayor and city councillors should direct the MLS and Toronto Police Service to formally investigate, review, and take immediate action to stop the abuse, misconduct and retribution by bylaw enforcement officers and police officers as against holistic practitioners;
- 2) The mayor and city councillors should ensure that complaints against bylaw enforcement from holistic practitioners are properly investigated, ensuring the safety of the complainant;
- 3) The mayor and city councillors should direct the Executive Director of MLS to end all policies and practices that lead to excessive and discriminatory inspections and prosecutions of holistic centers and practitioners;
- 4) City councillors should remove the moratorium on the issuance of new licenses to holistic practitioner applicants associated with five restricted professional health associations until after a comprehensive review of the current bylaw and policies on holistic practices .
- 5) City councillors should ensure that the comprehensive review of current bylaw and policies on holistic practices is conducted with meaningful participation of owners, practitioners, and other stakeholders of holistic centres and body-rub parlours.

Butterfly
Chinese and Southeast Asian Legal Clinic (CSALC)
Chinese Canadian National Council (Toronto) (CCNCTO)
Coalition Against Abuse by Bylaw Enforcement
FCJ Refugee Centre
Holistic Practitioners Alliance
Showing up for Racial Justice (SURJ)
South Asian Legal Clinic of Ontario (SALCO)

Attachment: Additional Information about the holistic centre and practitioners

1) Related news:

Bylaw officers accused of sexually harassing massage parlour workers, Toronto City News.
(2018/4/11) <http://toronto.citynews.ca/2018/04/11/bylaw-officers-sexual-harassment/>

Chinese News:

按摩院查牌人員涉用性暴力 要女從業員脫剩內衣供檢查:掃黃的人更黃逼- 被查者唱歌跳舞做表演 (明報, 2018年4月13日)

http://www.mingpaocanada.com/Tor/htm/News/20180413/taa1_r.htm

2) Number of investigations carried out at holistic centres and holistic practitioners

	2013	2014	2015	2016	2017 (Jan-Oct)
Holistic Centres	569	1649	1419	1780	1306
Holistic Practitioners	611	2069	2092	2585	1342
Body Rub Centres	300	192	136	210	128
Body Rub Practitioners	776	500	396	642	418
All investigations	31947	29647	25694	22600	20522
% of all investigations	7.06%	14.88%	15.73%	23.08%	15.56%

*Starting 2018, The bylaw enforcement division budget will increase \$682,000 annually to cover the cost of hiring 5 new bylaw enforcement officers solely targeting 410 holistic centres and 25 body rub parlours.

3) Number of charges against holistic centre and holistic practitioners from 2012-2017 (Oct)

	2013	2014	2015	2016	2017Jan-Oct	Total
Number of charges	75	337	277	236	255	1241
Number of conviction	42	193	168	79	44	564
Case pending or in court	0	0	18	12	193	334

From Jan-Oct 2017, there were 255 charges laid, of which 41 are “table mat not in a good repair” and 21 are charges of “no licensing number on advertisement” (i.e. holistic centres are charged when they do not put the licensing number on their business cards)



* This is from the picture taken by the bylaw enforcement officer to charge the holistic centre of “table mat not in a good repair”.

4) Survey on the experiences encountering with law enforcement (summary of findings)

- The survey interviewed 61 holistic practitioners
- 33% (21) holistic practitioners have experienced abuse, violence, misconduct by bylaw enforcement officers or police.

Sources:

Information obtain through Freedom of Information Request from the City of Toronto